IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

Crl.MC.No. 557 of 2007()

CRL.M.P. 4384/06 IN CRA.700/2006 of SESSIONS COURT, ALAPPUZHA

PETITIONER: PETITIONER

ABDUL AZEEZ, S/O. MUHAMMED KASSIM,
AGED 72, PULIMOOTTIL AGENCIES, PULIMOOTTIL
HOUSE, EDAVA P.O., THIRUVANANTHAPURAM DIST.

BY ADV. SRI.M.TRIPTEN

RESPONDENTS: COUNTER PETITIONERS

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. M.M.SADIQUE, S/O. HAMEED KUNJU,
AMBILI HOME PRODUCTS, NALLETHUPADINJARETHARAYIL,
KAPPIL KIZHAKKU KRISHNAPURAM VILLAGE,
-DO- P.O., ALAPPUZHA DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 557 of 2007

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Dated this the 1st day of March, 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the N.I. Act. He preferred an appeal. The appeal was admitted. The sentence was directed to be suspended, inter alia, on condition that the petitioner must deposit an amount of Rs.10,000/- within a period of two months from 29.12.2006. According to the petitioner, the condition imposed is too onerous. He is unable to comply with the same. In these circumstances he prays that the said condition may be set aside. If the condition were insisted, the petitioner will have to face the unenviable predicament of serving the sentence before his appeal is being taken up for consideration on merits.]

2. The cheque is for an amount of Rs.28,650/- The learned Sessions Judge certainly has jurisdictional competence to impose such a condition. The condition imposed cannot be said to be excessively severe or unjust. However, I find merit in the submission of the learned counsel for the petitioner that the

petitioner, a person aged 72 years, who has already been in custody for a short period, must be given some further time to comply with the condition of deposit.

3. This Crl.M.C. is accordingly allowed in part. The petitioner is granted time till 16.4.2007 to deposit the amount of Rs.10,000/- If the petitioner is unable to pay the amount, he must within 10 days file an application before the appellate court for an early out of turn and expeditious disposal of the appeal and in that event the learned Judge must dispose of the appeal by 16.4.2007.

(R. BASANT)
Judge

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